THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.7461 of 2007

Date: 17.04.2007

Between:

P.Janardhan Reddy and others.

....Petitioners

And

The A.P.Wakf Board and others.

....Respondents

O R D E R:

Petitioners assail the validity of a communication, dated 02.11.2004, to the Sub-Registrar, Choutuppal, the third respondent, from the District Collector, Nalgonda, the second respondent.

The petitioners state that they are the owners of various bits of land in different survey numbers of D.Nagaram Village of Choutuppal Mandal. It is stated that when the petitioners approached the third respondent, to obtain necessary information, the latter had made a reference to a communication, dated 02.11.2004, received by him from the second respondent and stated that the petitioners cannot transfer the lands mentioned in the A.P. Gazettee No.7A, dated 15.02.1990, and the corrigendum issued thereto. The petitioners submit that even when Section 22-A of the Registration Act, 1908 (for short 'the Act') was in force, the District Collector was not conferred with any power to prevent or prohibit alienations of any lands, and the communication that emanated from the second respondent cannot be sustained in law when the very provision was set aside by this Court.

Heard the learned counsel for the petitioner, the learned standing counsel for the Wakf Board and the learned Government Pleader for Revenue.

The impugned communication reads as under:

> "I am to inform that an extent of Acs.423.39 guntas belongs to Mosque Alamsapet, situated at D.Nagaram Village of Choutuppal Mandal are published in A.P. Gazettee No.7-A, dated 15.02.1990, at Sl.No.14273 in Col.Nos.10, 11 and 12 an addendum and corrigendum Notification for new survey numbers is published in A.P. Gazette No.48 dated 27.11.2003 . Xerox copy of the Gazette is enclosed herewith.

I, therefore, request you not to register the service inam lands which Sy.No's addendum and corrigendum published in the A.P. Gazette No.48, dated 27.11.2003."

The second respondent did not refer to any provision under which he issued this. It was only the Government that was conferred with the power to prohibit registration of the identified lands by issuing a notification under Section 22-A of the Act. That provision was set aside by this Court following the judgment of the Supreme Court in ***State of Rajasthan V Basanth Nahata***[1]***.***

Even when Section 22-A of the Act was in force, the District Collector is not vested with any power to prohibit registration of any transfers. As of now, except the prohibition contained in Section 5 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977, the powers of a registering authority are not circumscribed, particularly in the context of verification of title of the transferors. If there exist any other reasons for refusing registration, that are referable to the Registration Act or the Indian Stamp Act, the registering authority is under obligation to state the reasons and communicate the same to the persons, who presented the document. In case the doubt is as to the adequacy of the stamp duty and the registration fee, reference is made under Section 47-A of the Act to the District Registrar. Viewed from any angle, the second respondent cannot limit the power of a registering authority on the sole ground that any particular piece of land is covered by any notification issued under any other enactment.

Therefore, the writ petition is allowed and it is directed that the third respondent shall receive and process the documents that may be presented by or on behalf of the petitioners, without

reference to the impugned communication. If there exist any other grounds, it shall be open to the third respondent to pass a reasoned order and communicate the same to the petitioners. There shall be no order as to costs.

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17.04.2007

kdl

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[1] AIR 2005 SC 3401